

ABSTRACT

On the 4th of July 2013, the South African National Treasury introduced the Taxation Laws Amendment Bill. The purpose of the amendment bill was to introduce new anti-avoidance rules into the Income Tax Act No. 58 of 1962 (the Act) in order to reduce the formation of equity instruments that are falsely masked as debt instruments. The amendment bill contains sections 8F and 8FA which have unintended consequences for the real estate industry, more specifically for the unlisted real estate sector. The application of sections 8F and 8FA of the Taxation Laws Amendment Act, has been suggested to have a negative impact on the returns of unlisted real estate funds. The legislation appears to provide tax relief to real estate investment trusts (REITs) and this is perceived as grossly biased and discriminatory against unlisted real estate funds.

The Investment Property Databank (IPD) South Africa estimates the unlisted real estate market in South Africa makes up 46% of the property market. When pension funds and banks, short term and long term insurers, private investors and government are included, the unlisted real estate market is possibly larger than the listed real estate market. Despite the numerous listings of real estate investment trusts South Africa has seen over the last ten years, the listed real estate market is still in its infancy stage and accounts for a very small percentage of the property market in South Africa. This indicates the important role unlisted real estate funds play in the South African property market.

The purpose of this study is to find out whether the application of the tax legislation has had any effect on the performance of South African unlisted real estate funds. This study evaluates the investment performance of the unlisted real estate funds and real estate investment trusts (REITs) through the implementation of descriptive statistics, and the event study methodology to indicate whether there is a significant relationship in the returns of unlisted real estate funds and tax legislation.

The study finds that tax legislation imposed on South African unlisted real estate funds has had no significant impact on the return performance of unlisted real estate funds. The study also finds that the returns of unlisted real estate funds are very competitive with the listed real estate returns listed on the Johannesburg Stock Exchange.